

L 4729

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER

Application 13684 Permit 8175 License 4729

**ORDER DIRECTING ISSUANCE OF SEPARATE
LICENSE AND REVOCATION OF THE
ORIGINAL LICENSE**

WHEREAS:

1. License 4729 was issued to F.J. Heagerty and Mona M. Heagerty October 10, 1957 pursuant to Application 13684 and was filed with the County Recorder of Sonoma County on October 11, 1957.
2. License 4729 was subsequently assigned to Philip L. Flax and Carol Toby.
3. A request from the licensee's engineering representative was received by the State Water Resources Control Board (SWRCB) on August 25, 1997 advising the SWRCB the place of use under License 4729 is now owned by two separate entities, Gallo Glass Company and Philip L. Flax and Carol Toby.
4. The SWRCB has determined the requested division of the license is appropriate and will not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
5. The license condition pertaining to the SWRCB's continuing authority should be replaced with the current version to conform with Title 23, California Code of Regulations 780(a).

NOW, THEREFORE, IT IS ORDERED THAT:

1. License 4729 be replaced by License 4729A issued to Gallo Glass Company and License 4729B issued to Philip L. Fax and Carol Toby.
2. Superseded License 4729 is hereby revoked upon issuance of Licenses 4729A and 4729B.

3. License: 4729A (Application 13684A)
Owner: Gallo Glass Company
3387 Dry Creek Road
Healdsburg, CA 95448

Source: Russian River tributary to Pacific Ocean
in Sonoma County

Use: Irrigation

Amount: 0.28 Cubic Foot per second

Season: May 1 to December 1

Point of
Diversion: South 255 feet and West 24 feet from N¼
corner of projected Section 29, T8N,
R9W, MDB&M, being within NE¼ of NW¼ of
said Section 29, also described as California
Coordinate System, Zone 2,
N 311,000 and E 1,748,050.

Place of
Use: 121.7 acres within projected Section 19;
104.1 acres within projected Section 20;
6.0 acres within projected Section 29;
14.0 acres within projected Section 30;
3.0 acres within projected Section 24;
all within T8N, R10W, MDB&M.
248.8 acres total, as shown on map
dated January 1998 on file with
The State Water Resources Control Board,
and identified by Assessor Parcel
No: 110-200-02, 110-200-04, 110-200-07,
and 110-200-09.

License 4729B (Application 13684B)
Owner: Philip L. Flax and
Carol Toby
255 Summit
San Rafael, CA 94901

Source: Russian River tributary to Pacific Ocean
in Sonoma County

Use: Irrigation

Amount: 0.04 cubic foot per second

Season: May 1 to December 1

Point of
Diversion:

North 528 feet and West 260 feet from
Center of Section 21, T8N, R9W, MDB&M,
being within SE¼ of NW¼ of said
Section 21, also described as California
Coordinate System, Zone 2, N 314,350 and
E 1,753,250.

Place of
Use:

38.2 acres total within projected Section 21,
T8N, R9W, MDB&M, as shown on map dated
January 1998 on file with The State Water
Resources Control Board, and identified by
Assessor Parcel No: 110-240-07.

4. The existing continuing authority condition under License 4729A and 4729B be amended as follows:


Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust. (0000012)

5. License 4729A and License 4729B shall contain all other terms and conditions presently in License 4729 or as updated to reflect present SWRCB policy.

Dated: MARCH 18 1998

for 
Edward C. Anton, Chief
Division of Water Rights

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

License for Diversion and Use of Water



Page 1 of 4

APPLICATION 13684B

PERMIT 8175

LICENSE 4729B

THIS IS TO CERTIFY, That

Philip L. Flax and
Carol Toby
255 Summit
San Rafael, CA 94901

has made proof as of **September 22, 1955** (the date of inspection) to the satisfaction of the State Water Resources Control Board of a right to the use of the waters of **Russian River in Sonoma County**

tributary to **Pacific Ocean**

for the purpose of **Irrigation use**

under Permit **8175** of the Board and that the right to the use of this water has been perfected in accordance with the laws of California, the Regulations of the Board and the permit terms; that the priority of this right dates from **April 11, 1950** and that the amount of water to which this right is entitled and hereby confirmed is limited to the amount actually beneficially used for the stated purposes and shall not exceed **four-hundredths (0.04)** cubic foot per second to be diverted from **May 1 to December 1** of each year.

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

North 528 feet and West 260 feet from center of projected Section 21, T8N, R9W, MDB&M, being within SE¼ of NW¼ of said Section 21, also described as California Coordinate System, Zone 2, N 314,350 and E 1,753,250.

A DESCRIPTION OF THE LANDS OR THE PLACE WHERE
SUCH WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:

38.2 acres total within projected Section 21, T8N, R9W, MDB&M, as shown on map dated January 1998 on file with the State Water Resources Control Board, and identified by Assessor Parcel No: 110-240-07.

Licensee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this license.

The quantity of water diverted under this license is subject to modification by the Board if, after notice to the licensee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

Pursuant to California Water Code Sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

This continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirement for the authorized project. No action will be taken pursuant to this reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Sec. 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the Board.

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.

This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the Board.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

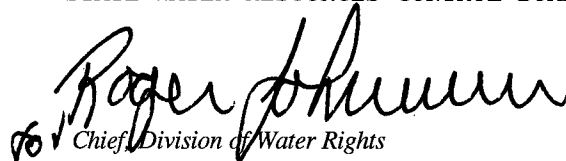
Section 1629. Every licensee, if he accepts a license does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

Dated: **MARCH 18 1998**

STATE WATER RESOURCES CONTROL BOARD


to ✓ *Roger Plummer*
Chief, Division of Water Rights

STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 13684

PERMIT 8175

LICENSE 4729

ORDER ALLOWING CHANGE IN POINT OF DIVERSION
AND CHANGE IN PLACE OF USE

WHEREAS License 4729 was issued to F. J. and Mona M. Heagerty and was filed with the County Recorder of Sonoma County on October 11, 1957, and

WHEREAS said license was subsequently assigned to Frederick M. MacMurray and June Haver MacMurray, and

WHEREAS the State Water Resources Control Board has found that the change in point of diversion and change in place of use under said license for which petitions were submitted on July 13, 1967, will not operate to the injury of any other legal user of water, and

WHEREAS the Board has approved and allowed said changes and has directed that an order be issued to describe said points of diversion and place of use in accordance with said petitions;

NOW THEREFORE IT IS ORDERED that permission be and the same is hereby granted to change the point of diversion under said License 4729 to points of diversion described as follows, to wit:

- (1) NORTH 528 FEET AND WEST 260 FEET FROM CENTER OF SECTION 21, T8N, R9W, MDB&M, BEING WITHIN SE $\frac{1}{4}$ OF NW $\frac{1}{4}$ OF SAID SECTION 21.
- (2) SOUTH 255 FEET AND WEST 24 FEET FROM N $\frac{1}{4}$ CORNER OF PROJECTED SECTION 29, T8N, R9W, MDB&M, BEING WITHIN NE $\frac{1}{4}$ OF NW $\frac{1}{4}$ OF SAID SECTION 29, AND

Application 13684
Page 2

IT IS FURTHER ORDERED that permission be and the same is
hereby granted to change the place of use under said License 4729
to a place of use described as follows, to wit:

121.7 ACRES WITHIN SECTION 19, T8N, R9W, MDB&M
104.1 ACRES WITHIN SECTION 20, T8N, R9W, MDB&M
38.2 ACRES WITHIN SECTION 21, T8N, R9W, MDB&M
6.0 ACRES WITHIN PROJECTED SECTION 29, T8N, R9W, MDB&M
14.0 ACRES WITHIN SECTION 30, T8N, R9W, MDB&M
<u>3.0 ACRES WITHIN SECTION 24, T8N, R10W, MDB&M</u>
287.0 ACRES TOTAL

Dated: MAR 22 1968

K. L. Woodward
K. L. Woodward, Chief
Division of Water Rights

9



STATE OF CALIFORNIA—STATE WATER RIGHTS BOARD

License for Diversion and Use of Water

APPLICATION 13684

PERMIT 8175

LICENSE 4729
Notice of Assignment (Over)

THIS IS TO CERTIFY, That

F. J. Heagerty and Mona M. Heagerty
Box 6697 Westside Road
Healdsburg, California

have made proof as of September 22, 1955
(the date of inspection) to the satisfaction of the State Water Rights Board of a right to the use of the water of
Russian River in Sonoma County
tributary to Pacific Ocean

for the purpose of irrigation use
under Permit 8175 of the State Water Rights Board and that said right to the use of said water has been
perfected in accordance with the laws of California, the Rules and Regulations of the State Water Rights Board and the
terms of the said permit; that the priority of the right herein confirmed dates from April 11, 1950;
and that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited
to the amount actually beneficially used for said purposes and shall not exceed thirty-two hundredths
(0.32) cubic foot per second to be diverted from about May 1 to about December 1
of each year.

The equivalent of such continuous flow allowance for any thirty-day period
may be diverted in a shorter time if there be no interference with other vested
rights.

The point of diversion of such water is located North five hundred twenty-eight (528) feet
and West two hundred sixty (260) feet from center of Section 21, T8N, R9W, MDB&M.,
being within the SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of said Section 21.

A description of the lands or the place where such water is put to beneficial use is as follows: 25 acres in SE $\frac{1}{4}$ of
NW $\frac{1}{4}$ of Section 21, T8N, R9W, MDB&M.

All rights and privileges under this license including method of diversion, method of use and quantity of water
diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the
interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of
diversion of said water.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time
to time by the State Water Rights Board.

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein
specified and to the lands or place of use herein described.

This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the board.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

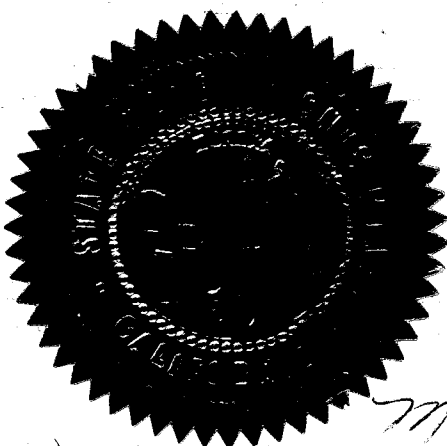
Section 1629. Every licensee, if he accepts a license does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

Dated: OCT 10 1957

STATE WATER RIGHTS BOARD



By *Leslie C. Jopson*
LESLIE C. JOPSON
Chief Engineer

4-15-64 RECEIVED NOTICE OF ASSIGNMENT TO *Fredrick M.*

Mac Murray and June Hauer
Mac Murray

6-3-81 Asgd to Don L. & Jean E. Nelson; David L. & Lucinda Anne Nelson

LICENSE 4729

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

LICENSE
TO APPROPRIATE WATER

ISSUED TO F. J. Heagerty and
Mona M. Heagerty

DATED OCT 10 1957

Notice of asgd: 9-23-87
app. # 13684
lic. # 4729

Philip L. Flax + Carol Toby
255- Summit
San Rafael, Ca 94901